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February 16, 2023

VIA ECF

Honorable Robert W. Lehrburger
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, N.Y. 10007

Re: Douglas McCallum v. City of New York et. al., 22 Civ. 81 (PAE) (RWL)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing defendant City of New York ("City") in the above-referenced action. Defendant writes to respectfully request that the Court stay the instant matter until May 8th, 2023 because the undersigned has been selected for jury duty. Plaintiff consents to this request.

By way of background, on January 4, 2022, plaintiff commenced this action pursuant to 42 U.S.C. § 1983 by filing the Complaint alleging claims for false arrest and excessive force. *See* Civil Docket ¶¶ 2, 7. On February 15, 2022, the Court issued a *Valentin* Order. *See* Civil Docket ¶ 7. On June 27, 2022, defendant responded to the *Valentin* Order. *See* Civil Docket ¶ 15. On October 3, 2022, defendant City filed its Answer to the Complaint. *See* Civil Docket ¶ 24. On October 26, 2022, the parties filed a proposed schedule for completion of the case. *See* Civil Docket ¶ 29.

On November 7, 2022, plaintiff filed the first Amended Complaint (hereinafter "FAC"). *See* Civil Docket ¶ 32. Pursuant to the Federal Rules of Civil Procedure, defendant City's response to the FAC was due November 21, 2022. In the FAC, plaintiff alleges that, on November 15, 2019, he was arrested without probable cause, and that, while handcuffed, officers punched and kicked him. *See* Am. Compl. at ¶ III, 1-9. Plaintiff further alleges that he was taken to a hospital where he received stitches to his face. *See* Am. Compl. at ¶ III, 14. The FAC adds Lieutenant Alberto Gonzalez and additional John Doe officers as defendants. *See* Am. Compl. at ¶ II. On January 11, 2023, the summons issued for Lieutenant Gonzalez on November 10, 2022 was returned as unexecuted. *See* Civil Docket ¶ 40.

In addition, on November 8, 2022, the Court ordered the New York City Law Department to ascertain the identity of the unknown police officers in the FAC and file its finding on the docket

by November 22, 2022. *See* Civil Docket ¶ 34. On November 21, 2022, defendant City requested an extension of time to answer or otherwise respond to the FAC, and to respond to the Court's *Valentin* Order dated November 8, 2022, until December 21, 2022. *See* Civil Docket ¶ 36. The Court granted defendant's extension request. *See* Civil Docket ¶ 37. On December 19, 2022, defendant City requested a further extension of time to answer or otherwise respond to the FAC, and to respond to the Court's *Valentin* Order dated November 8, 2022, until January 20, 2023. *See* Civil Docket ¶ 38. The Court granted defendant's extension request. *See* Civil Docket ¶ 39. On January 23, 2023, defendant City requested a further extension of time to answer or otherwise respond to the FAC, and to respond to the Court's *Valentin* Order dated November 8, 2022, until February 20, 2023. *See* Civil Docket ¶ 41. The Court granted defendant's extension request. *See* Civil Docket ¶ 42. On February 16, 2023, defendant City filed an Answer to the FAC. *See* Civil Docket ¶ 43.

On February 9, 2023, the undersigned was selected for grand jury duty and, upon information and belief, will be engaged for three months – from February 14th, 2023 to May 5th, 2023. I am expected to be in Court every day during this time period, during the majority of the work day on most days, and will have limited access to my email. Notwithstanding, on February 14th, 2023 the undersigned provided plaintiff with a service address for Lieutenant Alberto Gonzalez. Plaintiff had requested this information and this Office was able to obtain it for him. In the event that the stay is granted, plaintiff can still undertake steps to effectuate service on Lt. Gonzalez if he chooses to do so.

Defendants respectfully submit that plaintiff will not be prejudiced in any way if Your Honor is inclined to grant this request. As such, defendants respectfully request that the Court stay the instant matter until May 8th, 2023.¹ Thank you for your consideration herein.

Respectfully submitted,



Felix De Jesus
Assistant Corporation Counsel
Special Federal Litigation Division

cc: **VIA ECF**
Douglas McCallum
Plaintiff Pro Se

Request granted. The case is stayed until May 8, 2023. The stay will automatically lift as of May 8, 2023 or such earlier time as the Court may order. Notwithstanding the stay, Plaintiff may proceed with service on defendant Gonzalez. If defense counsel is released from jury duty earlier than May 8, 2023, he shall promptly so notify the court and Plaintiff. Upon lifting of the stay, the parties shall proceed expeditiously.

SO ORDERED:

2/17/2023



HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

¹ Magistrate Judge Cheryl L. Pollack granted a similar stay request in the matter of *Ramsey Smith v. The City of New York*, et. al., 21-CV-4157 (HG) (CLP).